

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MICHAEL GILYARD,)
vs. Plaintiff,) NO. CIV-11-22-D
THOMAS GIBSON, et al.,)
Defendants.)

ORDER

On February 17, 2012, the Court entered its Order [Doc. No. 35] adopting the Report and Recommendation [Doc. No. 31] of United States Magistrate Judge Bana Roberts. In doing so, the Court granted Defendants' motion to dismiss the Complaint and denied Plaintiff's motion for appointment of counsel. In the Order dismissing the Complaint, the Court also granted Plaintiff leave to file an amended complaint to cure the pleading deficiencies noted in the Report and Recommendation. The Order directed Plaintiff to file his amended complaint no later than 20 days from the date of the February 17, 2012 Order.

Plaintiff's deadline for filing an amended complaint expired some time ago, and Plaintiff has not filed an amended complaint or sought an extension of time in which to do so. Nothing has been filed in the case since the Court's February 17, 2012 Order.

Plaintiff's failure to comply with the Order and file an amended complaint warrants dismissal of this action. *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 (10th Cir. 2007) (citing *Olsen v. Mapes*, 333 F.3d 1199, 1204 (10th Cir. 2003)). In the exercise of its discretion, the Court has determined that the dismissal should be without prejudice to the filing of a future action.

IT IS SO ORDERED this 3rd day of May, 2012.

Willy W. Reptile

TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE